

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	
)	Docket No. 16-CR-40025-TSH
(1) IVAN CRUZ-RIVERA and)	
(2) CARLOS JIMENEZ)	
)	
Defendants.)	

**GOVERNMENT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE
REGARDING POTENTIAL CONSEQUENCES OF CONVICTION**

Pursuant to Federal Rule of Evidence 403, United States Attorney Andrew E. Lelling, and Assistant United States Attorneys Michelle L. Dineen Jerrett and William F. Abely, requests that this Court preclude the defendants from either eliciting testimony during the trial, or referencing during opening statement or closing argument, any information regarding the potential penalties the defendants face – including the 60-month mandatory minimum sentence pursuant to 21 U.S.C. §§ 841(b) and 846 – if they are convicted of the charges contained in the Indictment.

As grounds for this motion, the government states that it is not appropriate for the jury to consider what sentence the defendant is likely to receive if convicted, as sentencing lies squarely within the sound discretion of the court. *See United States v. Mulinelli-Navas*, 111 F.3d 983, 987-88 (1st Cir. 1997), *citing United States v. Alvarez*, 987 F.2d 77, 82 (1st Cir. 1993).

ACCORDINGLY, the United States requests that the Court issue an order precluding the defendants from eliciting any testimony or making any reference to any punishment consequences that they face if convicted.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

By: /s/ Michelle L. Dineen Jerrett
MICHELLE L. DINEEN JERRETT
WILLIAM F. ABELY
Assistant United States Attorneys
United States Attorney's Office
595 Main Street
Worcester, Massachusetts 01608

Dated: November 5, 2018

CERTIFICATE OF SERVICE

This is to certify that I have served counsel of record for the Defendants a copy of the foregoing document by ECF.

/s/ Michelle L. Dineen Jerrett
MICHELLE L. DINEEN JERRETT
Assistant U.S. Attorney

Dated: November 5, 2018

RULE 7.1 CERTIFICATION

This is to certify that counsel to the United States has conferred with opposing counsel and have attempted in good faith to resolve or narrow the issue.

/s/ Michelle L. Dineen Jerrett
MICHELLE L. DINEEN JERRETT
Assistant U.S. Attorney

Dated: November 5, 2018